

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**CWP No. 447 of 2006.**

**Date of Decision: 15-5-2007.**

---

Shri Bala Nand.

Petitioner.

Versus

---

State of H.P. and others.

Respondents.

---

Coram

**Hon'ble Mr. Justice Deepak Gupta, J.**

**Hon'ble Mr. Justice Surinder Singh, J.**

**Whether approved for reporting<sup>1</sup>?**

**For the petitioner : Shri B.N. Mehta, Advocate.**

**For the respondents No.1, 2 &4 :Shri M.S. Chandel, Advocate  
General with Mr. R.M. Bisht,  
Dy. A.G.**

**For the respondent No. 3: Mr.B.M. Chauhan, Advocate.**

---

**Surinder Singh, J (oral)**

By this writ petition, the petitioners have sought the following relief:

“The petitioners in the facts and circumstances may be held entitled for the extension of the Scheme of the respondents under ten years felling programme of private land owners trees for the year 2006-2007 instead of 2005-2006 as the same could not be completed due to the inaction on the part of the respondents after quashing of Annexure P/6 dated 5.5.2006 issued by the respondents in the interest of law and justice”.

We have heard the learned counsel for the parties and have gone through the record of the case and the departmental file was

---

Whether reporters of the Local papers are allowed to see the judgment?

ordered to be produced vide order dated 5-4-2007 as to how the case of the petitioners was dealt with.

In brief, the facts of the case are that Shilli Beat of Forest Range, Theog, District Shimla, was opened under the 'Ten Years Felling Programme' in the year 2003-2004. The petitioners, through their special power of attorney Shri Deep Ram had applied for the felling of the trees on 1-5-2003, with respect to the Khasra numbers owned by them in the Shilli Forest Beat. Their case was forwarded by the Divisional Manager, Forest Corporation (Respondent No.3) to the Divisional Forest Officer, Theog (Respondent No.4). The Divisional Forest Officer aforesaid vide letter dated 13-6-2003, allowed the demarcation and silvicultural marking of the trees but did not allow it over the land which was recorded as "Van"/"Bani". The copy of the said letter was also endorsed to Shri Deep Ram aforesaid to get the needful done.

The land owned by the petitioners comprised in Khasra Numbers 796, 370, 398, 412, 797, 795, 759, 805, 4, 94, 116, 124, 664, 741, 785, 737, 740, 104, 105, 84, 106, 114, 122 and 88 was recorded as either "VAN" or "BANI", (Forest) when they had applied for the demarcation and felling permission, the case of the petitioners was not processed by the respondent Divisional Forest Officer on account of these entries and Shri Deep Ram Special Power of attorney of the petitioners was also informed vide letter dated 13.6.2003, referred above, it was there after that the entries were got corrected/changed as Ghasni or Banjar Kadim, which could not have otherwise been done, and he applied again for deviation permission for demarcation of land and for marking of trees on 28.6.2005 to the competent authority through Divisional Manager, Forest Corporation (Respondent No.3), after a period of two years. The deviation permission was alleged to have been conveyed vide letter dated 30-3-2006 Annexure P/4 with a copy to the Conservator of Forest. The Conservator of

Forest vide his letter Annexure-P6 dated 5.5.2006 informed the Forest Corporation with a direction to intimate Deep Ram (SPA) that his case was recommended for approval for the year 2006-2007 which did not fall under the Policy framed for the purpose since the beat aforesaid was open for felling during the year 2003-2004 and deviation was allowed up to 31-3-2006 and the delay in resubmitting the case is attributable to the petitioner, therefore the petitioners were not entitled for the relief claimed nor they have any right.

Shri B.N. Mehta, learned counsel for the petitioners has forcefully argued that the case was deliberately delayed by the respondents and they let the time expired since there was no fault of the petitioners, the relief sought can be granted. As already seen above, the delay was totally attributable to the petitioners in resubmitting the case to the respondents after a delay of two years and the entries in the revenue record were such that the respondents could not have been granted the permission nor the change/correction of such entries was permissible at all. Secondly, as per the case of the petitioners they were allowed 80% of the felling of trees, it was only a case for 20% more felling which could not have been denied. In our opinion, this contention is totally misplaced on law and facts because clear felling of the trees is prohibited under the Land Preservation Act and rule 4 (e) of the 1983 rules framed there under. Therefore, argument is rejected.

Thus, looking the case from all angles and in totality of the circumstances, after perusing the record and the law as applicable in the instant case, we do not find it a case which requires our indulgence. Accordingly the petition is dismissed with costs, assessed at Rs. 5000/-.

Departmental file is returned to learned Deputy Advocate General.

(Deepak Gupta),  
Judge.

(Surinder Singh),  
Judge.

May 15, 2007.  
(BM)